

SETTLEMENT CONFERENCE PREPARATION REQUIREMENTS

The following are mandatory guidelines for the parties in preparing for the settlement conference.

1. **PURPOSE OF CONFERENCE:** The purpose of the settlement conference is to permit an informal discussion between the attorneys, parties, non-party indemnitors or insurers, and the settlement judge of every aspect of the lawsuit. This process provides the advantage of permitting the settlement judge to privately express his or her views concerning the parties' claims. The settlement judge may, in his or her discretion, converse with the lawyers, the parties, the insurance representatives or any one of them outside the hearing of the others. The settlement conference provides the parties with an enhanced opportunity to settle the case, due to the assistance rendered by the settlement judge.

2. **FULL SETTLEMENT AUTHORITY REQUIRED:** In addition to lead counsel who will try the case, a person with full settlement authority must be present for the conference. This requires the presence of your client or clients or, if a corporation or governmental entity, an authorized representative of your client, who is not a lawyer who has entered an appearance in the case. A business decision-maker with a law degree, who has not entered an appearance, may be the designated person with settlement authority.

For a defendant, such representative must have final settlement authority to commit the corporate or governmental entity to pay, in the representative's discretion, a settlement amount recommended by the settlement judge up to the plaintiff's prayer or up to the plaintiff's last demand, whichever is lower.

For a plaintiff, such representative must have final settlement authority, in the representative's discretion, to authorize dismissal of the case with prejudice, or to accept a settlement amount recommended by the settlement judge down to the defendant's last offer.

The purpose of this requirement is to have representatives present who can settle the case during the course of the conference without consulting a superior. Only the settlement judge may excuse attendance of any attorney, party or party representative.

3. **EXCEPTION WHERE BOARD APPROVAL REQUIRED:** If Board approval is required to authorize settlement, attendance of the entire Board is requested. The attendance of at least one sitting member of the Board (preferably the Chairman) is absolutely required.

4. **APPEARANCE WITHOUT CLIENT PROHIBITED:** Counsel appearing without their client (whether or not you have been given full settlement authority) will cause the conference to be canceled and rescheduled and may result in the imposition of sanctions.

5. **AUTHORIZED INSURANCE REPRESENTATIVE(S) REQUIRED:** Any insurance company that (1) is a party, (2) can assert that it is contractually entitled to indemnity or subrogation out

of settlement proceeds, or (3) has received notice or a demand pursuant to an alleged contractual requirement that it defend or pay damages, if any, assessed within its policy limits in this case, must have a fully authorized settlement representative present at the conference. Such representative must have final settlement authority to commit the company to pay, in the representative's discretion, an amount recommended by the settlement judge within the policy limits.

The purpose of this requirement is to have an insurance representative present who can settle any outstanding claim or claims during the course of the conference without consulting a superior. An insurance representative authorized to pay, in his or her discretion, up to the plaintiff's last demand will also satisfy this requirement.

6. ADVICE TO NON-PARTY INSURANCE COMPANIES REQUIRED: Counsel of record will be responsible for timely advising any involved non-party insurance company of the requirements of this Order.

7. SETTLEMENT CONFERENCE STATEMENT REQUIRED: One copy of each party's settlement conference statement, must be submitted no later than 12:00 Noon, on a date ordered by the assigned judge, directly to the settlement judge at the address below. The settlement conference statement should not be filed and will not be made part of the case file.

The settlement conference statement should set forth the relevant positions of the parties concerning factual issues, legal issues, damages, and the settlement negotiation history of the case, including a recitation of any specific demands and offers that may have been conveyed. Copies of your settlement conference statement are to be promptly transmitted to all counsel of record.

The settlement conference statement may not exceed five (5) pages in length. Lengthy appendices should not be submitted. Pertinent evidence to be offered at trial, if thought particularly relevant, should be brought to the settlement conference for presentation to the settlement judge.

8. CONFIDENTIALITY STRICTLY ENFORCED: Neither the settlement conference statements nor communications of any kind occurring during the settlement conference can be used by any party with regard to any aspect of the litigation or trial of the case. Strict confidentiality shall be maintained with regard to such communications by both the settlement judge and the parties.

9. NOTIFICATION OF PRIOR SETTLEMENT REQUIRED: In the event a settlement between the parties is reached before the settlement conference date, the parties are to notify the settlement judge immediately.

10. CONSEQUENCES OF NON-COMPLIANCE: Upon certification by the settlement judge of circumstances showing non-compliance with this Order, the assigned trial judge may take any corrective action permitted by law. Such action may include contempt proceedings and/or assessment of costs, expenses and attorney fees, together with any additional measures deemed by the Court to be appropriate under the circumstances.